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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/050,092	01/17/2002	Bruce DeFoor	X-13281	6662

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EXAMINER

LUONG, SHIAN TINH NHAN

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 06/09/2003

8

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/050,092

Applicant(s)

DEFOOR, BRUCE

Examiner

Shian T. Luong

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Information Disclosure Statement

1. According to the file wrapper, two information disclosure statements were filed on 3/4/02 and 4/22/02. However, only the information disclosure statement filed on 4/22/02 was in the file. Applicant's assistance is appreciated for sending in another copy of IDS and corresponding references.

Claim Rejections - 35 USC § 112

2. Claims 2 and 12-33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "said pocket has a width and depth generally equal to the diameter of a chalk stick to be received therein" does not indicate the size of the pocket because the chalk stick is not being claimed in combination with the carrier. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-2, 4 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Rode (US 3,631,973). Rode discloses a carrier for elongated object comprising a body of flexible

material with sides and ends. The carrier is rollable in the direction between the ends to form a roll enclosing the pockets with the outer surface of the body.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rode in view of Hadden (US 6,253,922). Rode discloses a plurality of rows for receiving the elongated articles but does not show more than one pocket on each row. However, Hadden suggest providing a plurality of pockets on a carrier wherein each row has at least three pockets. It would have been obvious in view of Hadden at the time of the invention to provide more than one pocket on each row to store additional elongated objects.

7. Claims 5-6 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rode in view of Kroop et al (US 5,388,689). Rode does not disclose the use of separate polymeric and fabric material on the bottom side of the resilient polymeric material. Kroop et al. is cited to show that a container with a plurality of pockets in a midportion of the container with a vinyl layer on the bottom of the pockets and a nylon fabric on the outer surface of the vinyl layer to provide protection and some rigidity to the container. It would have been obvious to provide the

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combination of the flexible vinyl and nylon layers on the bottom surface of the pocket to provide extra protection for the elongated objects.

8. Claims 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rode in view of Allen (US 5,320,223) and Gutentag (US 5,524,765). Rode does not show the pocket extending through the strip with flexible sheet cover the bottom side of the strip. But Allen teaches as an example of a device with a plurality of pockets wherein the pockets extend through the strip 22. A flexible film 26 and another flexible layer 20 on a bottom portion of the flexible layer cover the strip. Guetentag is also cited to show the lamination of a top, middle and bottom layer. The top layer has a plurality of pockets wherein the pockets extend through the top layer. It would have been obvious to extend through the strip to form the pockets so as to provide a larger pocket compartment.

9. Claims 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied above with respect to claim 7, further in view of Kroop et al (US 5,388,689). Rode as modified above does not disclose the use of separate polymeric and fabric material on the bottom side of the resilient polymeric material. Kroop et al. is cited to show that a container with a plurality of pockets in a midportion of the container with a vinyl layer on the bottom of the pockets and a nylon fabric on the outer surface of the vinyl layer to provide protection and some rigidity to the container. It would have been obvious to provide the combination of the flexible vinyl and nylon layers on the bottom surface of the pocket to provide extra protection for the elongated objects.

10. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rode in view of Stricklin et al. (Des. 323,065) and Hunt (US 5,427,239). Rode fails to show a carrier with a

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fabric layer that extends beyond the end edges of the flexible top layer and also lacks a fastening means. However, Stricklin et al. teaches a use of a pocket portion that has end edges shorter than the fabric layer. The carrier has a Velcro strap on the fabric layer to secure the case in a rolled position. Similarly, Hunt teaches a carrier with a Velcro strap or ties 130 to secure a carrier in the rolled position. Hence, one of ordinary skill in the art would readily recognize the use of strap or strips on the outer portion to secure the carrier when it is in a storage position.

11. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied above with respect to claim 13, further in view of Stricklin et al. (Des. 323,065) and Hunt (US 5,427,239). Rode fails to show a carrier with a fabric layer that extends beyond the end edges of the flexible top layer and also lacks a fastening means. However, Stricklin et al. teaches a use of a pocket portion that has end edges shorter than the fabric layer. The carrier has a Velcro strap on the fabric layer to secure the case in a rolled position. Similarly, Hunt teaches a carrier with a Velcro strap or ties 130 to secure a carrier in the rolled position. Hence, one of ordinary skill in the art would readily recognize the use of strap or strips on the outer portion to secure the carrier when it is in a storage position.

12. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied above with respect to claim 15, further in view of Hadden (US 6,253,922). Rode discloses a plurality of rows for receiving the elongated articles but does not show more than one pocket on each row. However, Hadden suggest providing a plurality of pockets on a carrier wherein each row has at least three pockets. It would have been obvious in view of Hadden at the time of the invention to provide more than one pocket on each row to store additional elongated objects.

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13. Claims 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied above with respect to claim 16, further in view of Stricklin et al. (Des. 323,065) and Hunt (US 5,427,239). Rode fails to show a carrier with a fabric layer that extends beyond the end edges of the flexible top layer and also lacks a fastening means. However, Stricklin et al. teaches a use of a pocket portion that has end edges shorter than the fabric layer. The carrier has a Velcro strap on the fabric layer to secure the case in a rolled position. Similarly, Hunt teaches a carrier with a Velcro strap or ties 130 to secure a carrier in the rolled position. Hence, one of ordinary skill in the art would readily recognize the use of strap or strips on the outer portion to secure the carrier when it is in a storage position.

14. Claims 20,25,29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rode in view of Kroop et al (US 5,388,689) and Allen (US 5,320,223) and Gutentag (US 5,524,765). Rode does not show the pocket extending through the strip with flexible sheet cover the bottom side of the strip and the use of separate polymeric and fabric material on the bottom side of the resilient polymeric material. But Allen teaches as an example of a device with a plurality of pockets wherein the pockets extend through the strip 22. A flexible film 26 and another flexible layer 20 on a bottom portion of the flexible layer cover the strip. Gutentag is also cited to show the lamination of a top, middle and bottom layer. The top layer has a plurality of pockets wherein the pockets extend through the top layer. Kroop et al. is cited to show that a container with a plurality of pockets in a midportion of the container has a vinyl layer on the bottom of the pockets and a nylon fabric on the outer surface of the vinyl layer to provide protection and some rigidity to the container. It would have been obvious to extend through the strip to form the pockets so as to provide a larger pocket compartment and it would have been obvious to provide

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the combination of the flexible vinyl and nylon layers on the bottom surface of the pocket to provide extra protection for the elongated objects.

15. Claim 21, 26, 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied above with respect to claim 20, further in view of Hadden (US 6,253,922). Rode discloses a plurality of rows for receiving the elongated articles but does not show more than one pocket on each row. However, Hadden suggest providing a plurality of pockets on a carrier wherein each row has at least three pockets. It would have been obvious in view of Hadden at the time of the invention to provide more than one pocket on each row to store additional elongated objects.

16. Claims 22-24, 27-28, 31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied above with respect to claim 16, further in view of Stricklin et al. (Des. 323,065) and Hunt (US 5,427,239). Rode fails to show a carrier with a fabric layer that extends beyond the end edges of the flexible top layer and also lacks a fastening means. However, Stricklin et al. teaches a use of a pocket portion that has end edges shorter than the fabric layer. The carrier has a Velcro strap on the fabric layer to secure the case in a rolled position. Similarly, Hunt teaches a carrier with a Velcro strap or ties 130 to secure a carrier in the rolled position. Hence, one of ordinary skill in the art would readily recognize the use of strap or strips on the outer portion to secure the carrier when it is in a storage position. With respect to claim 28, it would have been obvious to remove the fabric layer and place the strap on the vinyl layer to save material cost since it would not alter the function of the carrier.

Conclusion


16. Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, should be directed to the group clerical personnel and not to the examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners, M.P.E.P. 203.08. The **Group clerical receptionist number is (703) 308-1148** or the **Tech Center 3700 Customer Service Center number is (703) 306-5648**.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Donna Monroe at (703) 308-2209.

For applicant's convenience, the Group Technological Center FAX number is (703) 872-9302 and for After Final Amendment the number is (703) 872-9303. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify Examiner Luong of Art Unit 3728 at the top of your cover sheet of any correspondence submitted.

Inquiries concerning the merits of the examination should be directed to Shian Luong whose telephone number is (703) 308-2039. The examiner can normally be reached on T-F from 7:00am to 4:00pm EST.

STL
June 5, 2003


Primary Examiner
Shian Luong
Art Unit 3728